

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. 04-00053 DAE
)	
Plaintiff,)	DECLARATION OF COUNSEL
)	
vs.)	
)	
SILVER JOSE GALINDO,)	
aka DANIEL S. GALINDO,)	
aka TIMOTHY MAU,)	
)	
Defendant.)	
)	
)	
)	

DECLARATION OF COUNSEL

Darren W.K. Ching deposes and says:

1. Your Declarant is the Assistant United States Attorney responsible for the prosecution of the above-entitled case.

2. I am informed and of the belief that:

a. On October 29, 2007, defendant filed a motion to continue trial in this matter.

b. On or about November 1, 2007, after reviewing defendant's motion, the Government discussed this matter with defense counsel, Jack Schweigert and agreed to have trial continued from November 6, 2007 to January 8, 2008. The Government and defendant stipulated to the continuance of trial.

c. On or about November 6, 2007, the Government was informed that two civilian witnesses in this case, J. D. and

S.D. would be off-island in Antarctica for all of January and return to Hawaii in the beginning of February.

d. On November 14, 2007, the Government was informed by HPD Officer Daniel Walls that he will be on vacation and off-island for most of the month of January.

e. J.D. and S.D., and Officer Daniel Walls are necessary witnesses to prove that in Count 8 of the Third Superceding Indictment, defendant possessed a firearm. J.D. and S.D. are the owners of the stolen car defendant was found in and that contained the firearm. J.D. and S.D. will testify that they do not know the defendant and did not give him permission to use their car. They will also testify that the firearm within their car was not their firearm. Additionally, they will testify that the items found in the car did not belong to them. HPD Officer Daniel Walls was involved in the apprehension of the defendant while in the stolen car. Officer Walls will testify about the circumstance surrounding defendant's arrest and the firearm defendant is charged with possessing.

f. From on or about November 6, 2007 till today, I have been in contact with defense counsel seeking either a stipulated continuance or a stipulation to have depositions taken of these witnesses who will be unavailable for trial during January.

g. On November 21, 2007, defense counsel informed me that the defendant would agree to the taking of depositions of J.D. and S.D. However, defendant would object to the taking of the deposition of HPD Officer Daniel Walls.

h. The Government seeks the Court's permission to take the deposition of HPD Officer Daniel Walls, or in the alternative, the Government seeks a continuance of trial to February 5, 2008, when HPD Officer Daniel Walls, J.D., and S.D. will be available to testify in court.

i. This request is made in good faith, not for the purpose of needless delay, and will serve the ends of justice.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 21, 2007, at Honolulu, Hawaii.

/s/ Darren W.K. Ching

Darren W.K. Ching
Assistant U.S. Attorney